

[Mr. A. Y. G. Campbell]

[6th August 1929]

19. Mr. C. Gopala Menon,
20. Mr. F. E. James,
21. Mr. K. Krishnan,
22. The Mover (The hon. Mr. A. Y. G. Campbell),

and that they may be asked to make their report not later than the 25th September 1929."

The hon. Diwan Bahadur M. KRISHNAN NAYAR :—" I second the motion, Sir."

The motion was put to the House and carried.

* The hon. the PRESIDENT :—" I appoint Mr. B. Muniswami Nayudu, one of the Members of the Panel of Chairmen, as the Chairman of the Committee."

XI

THE MADRAS SERVICES COMMISSION BILL.

* The hon. Mr. A. Y. G. CAMPBELL :—" Sir, I beg to present the report^a of the Select Committee appointed to consider the Madras Services Commission Bill and move that the Bill as amended by the Select Committee be taken into consideration."

The hon. Mr. M. R. SETURATNAM AYYAR :—" I second the motion, Sir."

* Mr. S. SATYAMURTI :—" Mr. President, Sir, I beg to move—

'that this business be adjourned for a year.'

"I make this motion, Sir, after very careful and anxious consideration of the implications of the Bill and of this adjournment motion of mine. My first submission to this House, Mr. President, is that, as the Delegation Rules stand to-day, they are so inconsistent and so indefinite in scope in deciding the purposes for which this Public Services Commission should be constituted, that it will be well worth the while of this House to wait for a time—which must now be very short—when all these rules which are now thrown in the melting pot will emerge in a better and more suitable form, and when this House will be able to set up such a Public Services Commission, as has been set up in other democratic and self-governing countries. Sir, no doubt, at one time, I had very serious doubts about whether this House had the power to enact a measure of this kind; but both as a lawyer and as a politician I felt that it was not right that I should object to the competence of this House to legislate on such matters. I venture to submit to this House certain arguments based upon the nature of the statutory power, under which this Bill is sought to be introduced, and to ask this House to wait for a while, when we can have our powers clearly and satisfactorily defined. Sir, section 96 B of the Government of India Act of 1919 is the parent section under which this Bill is sought to be placed before this House. That Act says (I read from page 80 of Volume I of the Council Manual):

'The Secretary of State in Council may make rules for regulating the classification of the Civil Services in India, the methods of their recruitment, their conditions of service pay and allowances, and discipline and conduct. Such rules may, to such extent and in respect of such matters as may be prescribed, delegate the power of making rules to the Governor-General in Council or to local Governments or authorize the Indian Legislature or local Legislature to make laws regulating the public services.'

^a Printed as Appendix IX on pages 115-133 infra.

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"Under this power, Sir, the Secretary of State has made a set of rules which are called Delegation Rules concerning Civil Services. The Secretary of State had made in 1926 a set of rules under which he had delegated to the local Government the power to make rules regulating the method of recruitment to the provincial services, subordinate services and special posts, in Governors' provinces. He had also delegated, under another rule, the power to make rules with regard to conditions of service, pay and allowances and pensions. So that, taking the subject matter of those rules along with the subject matter of the provisions of section 96-B (2), rules had already been made with regard to recruitment, conditions of service, pay and allowances and pensions when the Secretary of State had delegated the power to the local Governments. That was the position when in 1928, the Secretary of State made a rule under which this Bill is brought before this House for being passed. That rule says :

'The local Legislature of any Governor's province is hereby authorized to make laws for the establishment and for determining the functions of a Commission. . . .'

"I would ask the House to note the following words :

'to regulate the public services of the Province, but any such law shall be subject to the provisions of any rules made by the Secretary of State in Council under sub-section (2) of section 96-B or section 96-C of the Government of India Act.'

"I may mention in passing, Mr. President, that section 96-C contemplates the appointment of a Public Service Commission for All India, and the assignment to that Commission of such functions as the Secretary of State may assign thereto. That is the All-India Public Service Commission. My point now before the House is that the only law which the Secretary of State has authorized this House to make is the law to regulate public services; and my point is that this Bill does not attempt to regulate public services in any one of the several matters mentioned in section 96-B (2), that is to say, neither in the methods of their recruitment nor with the conditions of service, pay, and other allowances, and pensions. I shall presently deal with the provisions of the Bill in detail and show how they do not seek to so regulate.

"To proceed with my argument, however, I may say at once, Mr. President, that the word 'regulate' is a well-known English word. It is defined in the Oxford English dictionary as meaning 'to control by rules,' from the Latin '*regula*,' to rule. Moreover, to prevent any possible misinterpretation of the word 'regulate' in so far as it applies to this Bill, may I invite the attention of the House to the fact, that so far as the rule-making power of either the Secretary of State in the first instance or the delegated rule-making power of this Government is concerned, the same word 'regulate' appears, as it does in the Act itself. The position is this. The Secretary of State may make rules for regulating the classification of the civil services in India, the methods of recruitment and so forth, and such rules may delegate the power of making rules to the local Governments. Therefore, unless it is contended, a contention which I hope no lawyer will advance, that the same word used in the same paragraph of a statute should be interpreted in different ways in different connexions, it is a well-known maxim of interpretation that the same word should be construed in the same way, if used in a statute more than once. I therefore venture to submit that if the word 'regulate' in so far as it applies to the Secretary of State or to the rules made by this Government under the delegated power means the

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controlling by rules in regard to the matters specified, the same construction should apply to the laws to be made by this House in this respect. That is to say, inasmuch as the rules made by the local Government seek to control the services by rules, similarly this House must have the right, if it proceeds to enact a Bill of this kind under the provisions of the Government of India Act, to control public services, in the same manner as the local Government controls and the Secretary of State can control. That is exactly the significance of the word, regulate or control.

"And the idea of this section, as I understand it, Sir, is that there are three sets of officers who can deal under the provisions of the Government of India Act with public services, viz., first, the Secretary of State himself by making rules, second, either the local Government or the Government of India when such power is delegated to them by rules which they can make, and third, the Indian Legislature or the local Legislative Council by enacting laws to regulate public services, when such power is delegated to them. I may mention in passing, Mr. President, that the local Legislature as defined in the Government of India Act means the Governor and his Legislative Council. So the delegation is either to the Governor and his Legislative Council on the one side, or to the local Government on the other. I may also say that the rules of the Secretary of State should be made by a majority of the House at a meeting of the India Council. In an earlier version of Rule 3, the words: 'subject to the provisions hereinafter made' occur while they have been removed later. I wish just to say a word on that matter. It is well-known that a power given to an authority by a statute if it is once exercised, becomes exhausted. That is, section 96-B (2) gives the power to the Secretary of State either to make the rules regulating public services himself or delegate that power to one or more of the specified authorities. My submission to this House is that when the Secretary of State did delegate his power to regulate the subordinate services and the special posts to the local Government, the power had become exhausted and he cannot once again exercise the power of delegation without any limitation whatever. I mention it as one of the difficulties in dealing with this Bill. Moreover, Sir, it is only under this earlier delegation to the local Governments that they have made the series of rules some of which have been published and some not.

"Rule No. 5 under which this Bill is brought before this House was made by the Secretary of State on the 10th October 1928, and the wording of that rule makes it clear that the Secretary of State intends it as an amendment to the existing rules. The preamble to that rule says:

'In exercise of the powers conferred under section 96-B (2) of the Government of India Act, the Secretary of State hereby makes the following amendment in the Civil Services (Governors' Provinces) Delegation Rules'.

"Therefore, this rule is not to be construed as if it were a new provision but it is to be treated as an amendment to the then existing rules which I suggest relate to the making of laws for the establishment and for determining the functions of a Commission to regulate the public services of the provinces. I may add that that is the only power the Secretary of State can delegate. So far as his power to delegate to the local Governments or the Government of India is concerned, the Government of India Act does not use the words 'regulating the public services'. It simply deals with the

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power to make rules. As regards the delegation of law-making power to the Indian or the local Legislatures, it is qualified in the Act itself by the words: 'to make laws for regulating the public services'; and in pursuance of that statutory provision the Secretary of State has made these rules for the establishment of a commission to regulate the public services of the province. This rule proceeds to say:

'Any such law shall be subject to the provisions of any rules made by the Secretary of State in Council under sub-section (2) of section 96-B or section 96-C of the Government of India Act.'

"Much play is sought to be made of the words that any such law shall be subject to such provisions; and it is contended that while the Statute provides that it shall be only to regulate public services, that power is sought to be restricted by the Secretary of State in the rules, by the words that that law shall be subject not only to the provisions contained in any rules made by him under the said sub-sections of the Government of India Act, but also subject to the rules made by the local Government in the exercise of their delegated power. My answer to that is twofold. First, in so far as that limitation by the Secretary of State in delegating the law-making power to this Legislature is concerned, however much he may limit it by that rule, he cannot restrict it to this extent so as to make it no regulating power at all. For example, take the question of the methods of recruitment, of pay and allowances, of pension or discipline. One or more of these matters this Commission ought to have some powers to regulate. If, on the contrary, this Commission is to have no control on any one of these matters, to authorize the Legislature to set up a Commission of this kind is a fraud on the power which has been given to the Secretary of State by the Parliamentary Act of 1919. To set up a Commission with no such powers of regulation and yet say that it is a Commission to regulate public services which alone the Parliamentary Act authorizes the Secretary of State to delegate to us is certainly a fraud on the statutory power of the Secretary of State.

"Now, Sir, my second argument is this. The rule says that any such law shall be subject to the provision of any rules made by the Secretary of State. I venture to submit, Mr. President, that those words can only refer to the rules made by the Secretary of State himself, and not to the rules made by this Government in exercise of the delegated power. The contention may be advanced that when the rule says that it ought to be subject to the provision of any rules made by the Secretary of State, it must be held to include the rules made by the local Government as well. I submit, Mr. President, that a restriction of this kind ought to be construed strictly, and in terms in which it is put down in the rule itself. This is after all a statutory rule. It has been laid on the table of both Houses of Parliament for two months and it has been made with the assent of a majority of members of the India Council. Further, if they wanted to prescribe that this should be subject not only to the provisions of the rules made by the Secretary of State but also to the provisions of the rules made by the local Government in the exercise of power which had already been conferred on them, they might have stated it specifically. And since they have not done so, I submit that we have no right to extend the scope of this restriction beyond its terms, and to say that this power to regulate public services is to be subject not only to the rules made by the Secretary of State but also to

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the rules made by the local Government, either now or to be made hereafter. My contention therefore is that so far as this rule is concerned there is no such restriction."

The House then adjourned for lunch.

After lunch—2-30 p.m.

MR. S. SATYAMURTI:—"Sir, I was saying, when we adjourned for lunch, that rule 5 simply provides that the law which this Council may make shall be subject to the provisions of any rules made by the Secretary of State. And that does not mean that the law should be also subject to the detailed rules with regard to recruitment and similar matters made by the local Government, in the exercise of that power delegated to it. Moreover, Sir, that rule merely says that such law, that is, a law *regulating* the public services becomes void, if it is repugnant to any such provision in the rules. Now, Sir, the only such provision is that the power to make rules regulating the methods of recruitment of the provincial services, subordinate services and special posts is delegated to the local Governments. The local Legislature is also authorized to establish and determine the functions of a Commission to regulate the public services of the province. I should like to know, Sir, reading those two rules together, what is the repugnancy in enacting a law which gives to the Commission the power to regulate the public services. Repugnant means inconsistent with or contradictory to and I suggest, Sir, that the law establishing a Public Services Commission to regulate the public services is not by itself contradictory to or inconsistent with the rule made by the Secretary of State giving the power to make rules regulating the public services to the local Government, unless it is also argued, and the House accepts the argument, that all the rules which the Government have already made or may hereafter make should be held to override the powers of this Council to establish a Public Services Commission. Moreover, Sir, as I have said, the main point of the argument is that according to the terms of the section in the Government of India Act, section 95-B (2), and in the words of the rule itself, the only Commission which this House can establish by a law is a Commission to regulate public services.

"Now, Sir, if the House would turn to this Bill they will find that this Bill, except in the first paragraph of the preamble which is contradicted by the second paragraph thereof, does not even purport to regulate any matter regarding the public services. No doubt, the first part of the preamble repeats parrot-like the rules made by the Secretary of State. It says, 'Whereas the Secretary of State for India has made a rule authorizing the local Legislature, subject to certain conditions and restrictions, to make laws for the establishment and for determining the functions of a Commission to regulate the public services of the Presidency of Madras.' The second paragraph follows, 'and whereas it is necessary and expedient to establish a Commission for discharging the functions hereinafter specified in relation to the said services.' I should have expected, Sir, the draftsmen to have had the sense that the two paragraphs of the preamble at least ought to be consistent, each with the other, whatever the remaining clauses of the Bill may be. But one finds that while the first paragraph of the preamble starts with the ambitious object of establishing a Commission to regulate the public services, the second paragraph merely says, 'discharging the functions hereinafter

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specified.' The question, then, Mr. President, is whether any or all of these functions amount to anything more than advisory functions or come anywhere near regulating any matter concerning the public services.

"Now, Sir, I skip over sections 1 to 7, because they have nothing to do with the functions of the Commission. Coming to section 8, Sir, the regulation which this Bill gives to the Commission is the right to advise the local Government on any question which the local Government may refer to it. The Bill says 'shall advise,' but when? Only if the Commission is asked to give the advice. And therefore even the right to give advice is not given to it, unless the Government choose to invoke the machinery of this Public Services Commission. And then, what happens to the advice is left alone. But I am sure the hon. the Revenue Member himself will claim that such is the position of the Government under the rules that the advice will share the fate of all advice which a person may or may not take, according to his inclinations. It is not provided there that the advice is obligatory, and I think the position of the Government is that the advice cannot be obligatory. But whether that position is sound or not, I submit that section 8, as it stands merely makes the Public Services Commission an advisory body, advisory on matters referred to it, whose advice may or may not be taken. That certainly is not regulating public services, whatever else it may or may not be.

"Then, Sir, there is section 9 which deals with recruitment by competitive examination to the public services. There again, Sir, the section says, 'where any competitive examination is to be held in India for the purpose of recruitment to any provincial or subordinate service or special post, the Commission shall advise the local Government, etc.' Of course, it is claimed by the Government that the right to determine for what post or services competitive examinations are to be held is to be vested in them, and decided by them. And after they have decided that, they will indulge in the luxury, if they want to do so, of consulting the Commission, and the Commission shall advise the local Government in the matter of the regulations prescribing the qualifications of candidates, conditions of admission and the syllabus of examination. Again, I ask, Sir, what becomes of the advice? Supposing the Commission prescribes certain qualifications, certain conditions of admission and certain syllabuses, is the Government going to accept it? No. Then again, going downwards in the Bill, the Commission shall 'announce the number of vacancies,' 'make all arrangements for the actual conduct of the examination,' arrange the candidates in a particular order and forward a list. Now supposing a list is forwarded, what happens? Is there a provision that the Government cannot go outside the list? The advice is taken, when the advice is wanted. It is accepted or rejected according as it suits the whims and caprices and the political exigencies of the Government. And the result therefore is, even according to section 9, the functions of this Commission are purely advisory. Section 10, Sir, deals with recruitment by selection. The position there is exactly the same as in section 9 and the list made by the Commission is by no means binding on the local Government. Then, Sir, we come to section 11, that is, with regard to promotions. Even then, it is a question of advice, and even the order of preference in which the candidates may be arranged by the Commission is not binding on the Government.

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“ But the climax is reached, Mr. President, when we come to section 12 which says, ‘ In the exercise of its functions under sections 9, 10 and 11 the Commission shall observe the rules, if any, made by the Local Government regarding the constitution of, or recruitment to, any provincial or subordinate service or special post . . . ’ Now, Sir, pausing there, I would respectfully invite the House to read that section carefully and say whether I am not right in claiming that that section reduces this Commission to a ridiculous and expensive farce, because on all matters of recruitment and on all similar matters on which the Local Government may make rules, this Commission has got to carry out the orders of the Local Government.

“ Then, I should like to know, Sir, why a Commission of this kind is wanted, if it is merely to interpret the rules made by the Government and to advise the Government. I think it would be very much less expensive and more consistent with the dignity of this House, were the Government to use the power that they already have under Devolution Rule 3 and have their own Board of Selection whose advice they may or may not accept. But I appeal as a Member of this House to my hon. Colleagues to consider whether they are placing themselves in a position of dignity and self-respect, when they are sought to be used as puppets by the Government for constituting a Commission which shall have no powers, and even in the exercise of its limited powers, can be cribbed, cabined and confined by the regulations and rules by the Local Government which may go on varying from time to time according as the political or communal complexion of this House changes year after year. I do venture to submit, Mr. President, and I am sure every Member of this House is convinced, that this section if passed will knock the bottom of the case for this Commission altogether.

“ Then, we come to section 13 which deals with examinations for confirmation or promotion. Even then it is merely advice and the list arranged by Commission is not made binding on the Government. Then sections 15, 16 and 17 deal with appeals, memorials, records to be sent to the Commission on reference and so on. All these also are purely advisory in character, and the Government also reserves to itself the power to make rules for the purposes of this Act and not inconsistent therewith under section 19. Therefore, it comes to this, that the whole Bill is intended to provide three jobs for three supporters of the Government for the time being and to make their position absolutely strong. Secondly, these provisions are calculated to remove them altogether from the scope of the legitimate criticism of this House.”

“ I entirely agree, Mr. President, that so far as the salaries of the Chairman and the Members of this Commission are concerned they are to be made non-votable, because if any self-respecting officer is expected to function on this Commission, the post should, as far as possible, approximate to the position of the High Court Judges, who ought to be above political influence of one kind or another, if they are expected to give disinterested advice to the Government of the day, consistently with the claims of communal justice. There should be no place for ministerial or personal patronage which has become a habit of this Government for the last few years. Ministries have been clinging tenaciously to the offices, applying purposely the maxim that every man has his price. And I venture to submit that all of us who are interested in the purity and efficiency of public administration, will want a Commission, which will continue to work for the increasing happiness

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and prosperity of this country, independent of the political inclinations and predilections of the Ministry for the time being in force, and which must put down with a firm hand this idea that is being followed that the public services are to be used as a means of rewarding party loyalty or punishing party disloyalty. I therefore suggest that, while the members of the Commission ought to be above all party prejudices, clauses 6 and 7 of the Bill are unnecessary. That is to say, the appointment and salary of the Commission ought to be made non-votable by making them statutory charges, taking advantage of the Government of India Act, that money ought to be provided by law and it shall be non-votable. But, Sir, while I agree that the members' salary ought not to be the sport of political majorities here, I think the work of this Commission ought to come under periodical review of this House, as the work of the High Court comes here, when we discuss the salaries of the establishment of the High Court Judges, as also of the Executive Council when we review the whole administration of this Government. I think it is right that sections 6 and 7 ought not to remain there.

2-45
p.m.

"But, my point, Sir, is this; in so far as this Bill may claim to have any definite object, the only object is to create three posts and provide salaries for them. That is the real object of this Bill. There is no other power given there. There is no important function assigned to the Commission. It is merely creating three new offices. Now, Sir, I venture to suggest that so far as the public services are concerned, the only section under which this House may legislate is the rule delegating the power by the Secretary of State under section 26-B (2) of the Government of India Act. Because under section 80-A of the Government of India Act, 'the local legislature of any province has power, subject to the provisions of this Act, to make laws for the peace and good Government of the territories for the time being constituting that provinces.' That power, Sir, as hon. Members will notice, is 'subject to the provisions of this Act,' namely, the Government of India Act. The Government of India Act has provided, in a separate chapter, provisions with regard to the control of public services, and except in the exercise of that power, this House cannot deal with public services under the terms of section 80-A of the Government of India Act.

"Now, Sir, so far as these rules are concerned, I want to advance one more argument. If my contention is accepted by this House, then the House has no power to legislate. Assuming for a moment that the House has power, may I argue, from the point of view of political expediency, before this hon. House, that this Act was passed in 1919, and it was then contemplated to delegate these powers to this House for constituting a Commission? Ten years have elapsed since, and nothing has been done by the Government so far to establish a Commission. The whole constitution is now in the melting pot, and within a year from now, I expect, normal contingencies being excepted, there will be a revision of the constitution under which the Secretary of State's position as against the Local Government or the Government of India will completely change. I think at that time it will be far more useful and far more expedient to establish a Commission with a reformed House with full powers, rather than now rush this Bill through, and at the eleventh hour, knowing that these rules have now gone into the melting pot.

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"Now, I ask the Government of Madras, what is their position in the matter? Do they want those rules or are they satisfied with the present position under which they have to carry out orders made by the Secretary of State, the Government of India or by any outside agency? Do they or do they not want full provincial autonomy, in the matter of recruitment and management of services? Does this House or does not this House want full control over this matter? If that is so, if we are for full provincial autonomy, is it nothing more than a paper demand? Then, what is the necessity for rushing this Bill through at this stage without waiting for those rules to be reconsidered, instead of undertaking this legislation under better and more definite conditions.

"That point will be proved when I read to the House the paragraph concerning the services in the Memorandum submitted by the Government of Madras to the Indian Statutory Commission. I am giving the opinion of the Madras Government, and at page 26 they say:

'Responsible self-government, if it implies anything, implies that the provinces must be free to recruit its own servants as and where it likes. There can be no imposing upon it a body of men recruited under regulations, from sources and on rates of pay prescribed by some outside authority.'

"Did the Government mean what they wrote, when they wrote this? If they did—my hon. Friend opposite (the hon. Dr. P. Subbarayan) is an authority in English—when the Madras Government said 'there can be no imposing upon it a body of men recruited under regulations . . . prescribed by some outside authority', why in the name of commonsense do you want to rush this Bill, with an 'outside authority' over you, namely, the Secretary of State? Twelve months more, and you will have a new constitution. As I said, either the Government do not mean what they wrote, or they forget what they wrote. Why not wait till we come by our own and then establish this permanent Commission? Having waited ten years, why rush at the end of the tenth year? Then, Sir, there is one concluding paragraph which puts the case very strongly, which I want to read to the House:—

'Appointments to the Public Services and all service questions should be handed over to a Public Service Commission for disposal in each province under statutory rules made by the provincial Government' (not the Secretary of State!) 'The Madras Public Service Commission Bill, about to be presented to the local Legislative Council indicates the scope of this suggestion.'

"It is a carefully worded sentence; it does not express approval of the Bill, but it merely says that the Bill indicates the scope of the suggestion. Then follows one more interesting sentence:

'In the interests of the provinces even now and infinitely more so under the new conditions, the provincial Governments must be relieved from the responsibilities of exercising patronage in this direction.'

"Do the Madras Government mean what they say? Then, why do they want this Bill under which they want to have patronage in appointing the Chairman and in appointing the Commissioners, and to dictate to the Commission the various rules under which patronage should be distributed? Then, they say:

'Even now, the pressure by constituents on every member of the Legislative Council and still more on every Minister to use his position in the furtherance of this or that individual appointment is intolerable and mere election ought not to involve inevitably the subjection to this annoyance and the incurring of the hostility of most of the numerous band he cannot hope to gratify.'

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"I think this summarises in a very fair and in a very accurate form the feeling of every Member of this House that pressure by constituents for appointment of individuals is not to be tolerated.

"Now, Sir, before the ink with which they wrote that memorandum was dry, they want to rush this Bill to perpetuate the very evils which the Madras Government very rightly claimed should be eradicated from the administrative machinery of this province.

"Then, Sir, introducing this Bill, His Excellency the Governor, who was then the Leader of the House, claimed two objects as likely to be achieved by the passage of this Bill. He said, as the first object, 'In the first place, the rules that give the Local Government the power to regulate the method of recruitment say that the previous sanction of the Governor-General in Council should be required to making the first appointments to the provincial service otherwise than as a result of competitive examination or on the advice of a permanent Board of Selection appointed by the Local Government or of the Central Public Services Commission. Now, therefore, if the Local Government makes any statutory rules regarding the method of recruitment to any provincial service otherwise than by competitive examination, every appointment would require the sanction of the Governor-General in Council unless we set up a permanent Board of Selection on whose advice the Local Government should act.' If that is the object of the Bill, I want to join issue with the hon. the Revenue Member as he then was, when he claims by setting up this Public Services Commission, Government will have done away with the need for previous sanction of the Government of India for first appointments, if they happened to have a permanent Board of Selection. Because, Sir, I suggest that although the appointment to this Commission, in the last resort is in the hands of the Local Government, there are amendments on the order paper which want to vest this power of appointment in other authorities. Whether these amendments will be accepted or not, I cannot anticipate. But, Sir, I venture to suggest that a statutory body such as is contemplated by the provisions of this Bill cannot be said to be a permanent Board of Selection appointed by the Local Government, when there are restrictions placed on their powers of appointment, even in the very provisions of the Bill as they are. This House is also asked to agree to the various restrictions with regard to the nature of the appointment to be made.

"But, I have a more substantial objection, Sir. It is said the Bill is intended for the making of future appointments after consulting a permanent Board of Selection. I do not think, taking the words of the rule governing first appointments, in the context, it can be seriously contended that by purely setting up an advisory body whose advice may be sought or may not be sought, and whose advice, if given, may or may not be accepted, can take the place of a permanent Board of Selection. I suggest that, even assuming that it will take the place of a permanent Board of Selection, there is no need for passing this Bill for that purpose. Because, it is now open to this Government to consult the Public Services Commission with regard to first appointments they make, except those on the results of a competitive examination. This suggestion of mine is supported by high authority

"I desire to support my position by reading an extract from the report of the last Royal Commission on Public Services, namely, the Lee Commission,

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who went into this matter very carefully. Sir, that Commission, in paragraph 26 of its report said :

‘ The Public Services Commission, as we contemplate it, will be an All-India body ; and, in so far as it may be invited by Local Governments to assist in dealing with problems of provincial administration, means must be provided to secure for it competent advice on provincial matters and to bring it into touch with local authorities. The requisite link might be found in the Chairmen of the Provincial Selection Boards, who, in our opinion, should be paid full-time officials appointed by the Governor in Council in consultation with the Public Services Commission. These Chairmen would not be members of the Commission, but would act as its advisers on all local matters.’

3 p.m. “ They go on to say, ‘ In respect of recruitment for central services, and if a Local Government should so desire, for provincial services, it should act as agent of the Secretary of State, the Government of India, or the Local Governments as the case may be ’. I pause to suggest to this Government and this hon. House that for the present, until the rules are modified suitably, until we have full provincial autonomy, in respect of provincial services, we may well proceed by the method advocated by the Lee Commission and contemplated by the Secretary of State, when he appointed the Public Services Commission, namely, that this Local Government may take the advice of the Public Services Commission on all such matters, for a year or two years during which we may not be able to set up our own machinery.

“ And the hon. the Revenue Member, as he then was, in his speech, also said ‘ It will not be for the Commission to lay down the conditions of recruitment. That is the duty of the Local Government and that duty it cannot delegate to any other authority if it is to function as Government at all ’. I think, even in the United Kingdom, which is a pattern to us in all such matters, it is provided inter alia, that ‘ the qualifications of all persons proposed to be appointed, whether permanently or temporarily, in any situation or employment in any of His Majesty’s civil establishments shall, before they are appointed, be approved by the Commissioners, and no person shall be so appointed until a certificate of his qualifications has been issued by the commissioners ’. The Government have no power to appoint any unless he has obtained a certificate of his qualifications from the Civil Service Commissioners themselves.

“ Then, Sir, in his well known book on Responsible Government in the Dominions, Keith summarises the law on the matter in the various Colonies and the Dominions.

“ In Canada, the Board of Commissioners held office for 10 years . . . they can be removed only on an address from the two Houses. But these commissioners are so dependent that they can be removed by the Governor in Council. If the commissioners do not suit the whims of the treasury benches, and do something which does not suit the political exigencies of the time, they may be ordered home. To this body was given the right to make appointments by examination in lieu of the old system of nomination, from qualified persons, and to issue certificates for increased pay, promotions, etc.

“ Then, with regard to Australia, ‘ In the Commonwealth of Australia ’ with better models than those of Canada to follow, the service was organized on a strictly non-political basis. The control was given to a Public

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Services Commissioner who could be removed only on addresses from both Houses of Parliament. In 1922, by Act No. 21, a Board of three, with a short, but renewable tenure of office, was substituted. The service was classified as administrative, clerical, professional and general, or, under the Act of 1922, in four divisions, and the principles are appointment by examination where possible, and promotion by merit and seniority, not by the latter alone, save in case of equal merit.

"So far as the Union of South Africa is concerned, 'the Public Service and Pensions Act, 1912, as amended by Act No. 39 of 1914 and now consolidated as No. 27 of 1923, provides for the control of the services under the Public Service Commission of three members who hold office for five years, but this body has wide powers as to appointments, promotions, enquiries into cases of misconduct, grading of the service; and its consent is necessary for alterations of salary, new appointments, payment of gratuities, and other allowances; it administers the leave and subsistence allowance regulations.

"In the Irish Free State, 'provision is made for the appointment by the Executive Council of a Board of Civil Service Commissioners three in number, holding office at the pleasure of the Council. The Board is required to enquire into the qualifications of every person proposed to be appointed to permanent employment. No person can be appointed without a certificate of qualification as regards knowledge and ability. All appointments are made by competitive examination subject to the exceptions set out in section 6.

"I submit that so far as the right to control these matters is concerned, it has been conceded, to various extents and in various manners to Public Services Commission in other countries. We can follow the models in other countries. Therefore it is wrong to suggest that the Government cannot delegate its power to the Commissioners.

"Then, Sir, I want to say one word about a question which is likely to come up again and again when we discuss a matter of this kind, viz., communal representation. I have no desire to discuss that matter now, because it is not strictly relevant to the provisions of this Bill. But I want to make my position perfectly clear. We believe that in this country, and especially in this province, it will be necessary for some time, until the political atmosphere improves radically, that we must do everything in our power to remove communal suspicions and we ought to train and educate all communities to work together for the common weal. The time is not yet, I am hoping, as every hon. Member hopes, that the time will come very soon. I want to see nothing done to prevent the coming of the time as soon as possible. But my point is this. By all means, have communal justice, but let that communal justice be determined and administered by a body of men whose existence does not depend on the continual satisfaction of the increasing claims of political parties; let not that communal justice vary morning after morning, hour after hour, day after day, according as the complexions of the political parties, on whose support the Government must rely, are found to change. I am therefore pleading that if you want to have a commission, it must be a commission in whose capacity and impartiality and independence you will have confidence. I appeal to my hon. Friends on the Treasury Bench, remembering what they wrote on this question to the Statutory Commission, remembering the very lurid pictures which they drew

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of the unfortunate plight of Members of Council and Ministers of this House, I ask them whether they do not agree that these questions of satisfying rival claims are decided in a judicial and satisfactory manner. Efficiency, character and ability must be the test. That is why I plead, when we do appoint this commission, it should be a commission having full powers to deal justice to all communities, satisfactorily. After all, this House has the ultimate control over this commission in voting its establishment. The House will have the right to discuss for itself and lay down the broad lines of policy. Once they have been laid down, there ought to be no room for backstairs influence. The Commission must be left to administer the matters entrusted to them to the best of their lights.

"Therefore, Mr. President, I submit to this House, that there is a great deal to be gained and nothing lost, by putting off the passing of this Bill for one year. The hon. the Revenue Member did not advance any argument this morning in introducing this Bill, as to why it has to be passed here and now. If the Government themselves will review their position and not stand by the position they have already taken, they will agree that this request to allow these rules to be replaced by better rules under a different system of control and by outside authority is fair and reasonable. I appeal to this House to support this motion for adjournment on these grounds. I am not at all sure, once this commission has been constituted, even the learned Advocate-General will find it very easy to interpret the perpetual questions that may be put to him as to what are matters which can be regulated by rules made, what are the matters which this law can regulate, and whether it is a permanent Board of selection or not. He will himself concede that these matters are not free from doubt. There is some inconsistency between one rule and another, although they have been made by the Secretary of State for India. It is human to err, and even Secretaries of State may err. As I said, in making rule 5 he forgot the existence of rule 3, or chose to ignore it. And the result is we have two sets of rules, delegating the same power to two bodies, one the local Government, and the other, the Commission. How is the rule to be worked, unless the commissioners are the sweet creatures willing to carry out the orders of the Government? As it is, the law is going to cast on them very difficult and delicate duties, and unless they are to be the glorified head clerks of the local Government, they cannot conscientiously carry out their responsibilities. That is my first reason. It may be said that it is better to have an unsatisfactory commission than no commission. I recognize a great deal may be said for that point of view. But these rules are going to be changed. Why perpetuate a commission under these admittedly unsatisfactory conditions? We have been without a commission for nine years. Why have a commission now whose whole position and functions will soon have to be changed? It does not achieve the object which the hon. the then Revenue Member had of taking the place of a permanent Board of selection.

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"The last point I want to make is that there is an election which is bound to come. I do not know when; but, unless the Government of India Act is amended, this Council cannot last beyond December 1930. This Council's normal term of life expires in December this year and, under the Government of India Act, its life can be extended for a year more only.

"I appeal to my friends who have got experience of parliamentary legislation, whether any decent political party introduces highly controversial and

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important legislation at the fag-end of its term of office. No decent political party does so without consulting the electorate and getting a mandate from it and this has been reserved to the Madras Government. All canons of parliamentary practice and legislation are thrown to the winds when, without making this important piece of legislation an election issue, a controversial measure of this kind is attempted to be rushed through at the fag-end of the Council's life. I appeal to my friends to say whether they do not want to go to the country and tell the electorates—'Here is a first-class measure which we will pass if you return us to power.' For all these reasons, Mr. President, I suggest that the adjournment of the consideration of this question will not do any harm, but, on the other hand, will enable us to go before the country and get a mandate from the electorate on this matter.

"More than that, I appeal to the Government of Madras themselves—the authors of this measure—to see that their hands are free to take up this legislation when their hands are really free. If they are sincere in asking for full provincial autonomy, if they are sincere in this matter, then I say that they ought to agree to my motion for adjournment, so that a provincially autonomous Government having a provincially autonomous legislature may appoint its own public services commission and appoint its own servants consistently with the demand for communal justice.

"With these remarks, Mr. President, I move that this business be adjourned for a year."

* Mr. A. RANGANATHA MUDALIYAR :—"Mr. President, after the eloquent and exhaustive speech of the hon. Member for the University I do not think I have got much to say. But I must say that it is most unfair to this House to ask that this Bill be considered and passed now. I think nothing will be lost by accepting the motion of the hon. Member for the University. All that is now proposed to be done by the Bill can be done by an executive order and I do not think it proper for the Council to ratify or endorse a measure which the Executive Government wants and the country does not want and the Council cannot improve. I have very great pleasure in seconding the motion."

* Mr. F. E. JAMES :—"Mr. President, I congratulate Mr. Satyamurti on his very eloquent and interesting speech, but I cannot congratulate the seconder in the same way. Mr. Ranganatha Mudaliyar preferred to have an executive order for a measure of this kind. I ask whether he was really serious in what he said.

"Sir, I should like to say that the European group entirely supports the principles underlying the Bill. We have all along advocated the establishment of a public services commission and that within the rules the powers of this Commission should be extended to the fullest limit under the existing Act.

"Mr. Satyamurti's argument was mainly devoted to the support of his amendments which are on the order paper and not to reasons for the adjournment of the consideration of this Bill. His argument was for amending the provisions of this Bill.

"If the principle of the Bill is good what is the real reason underlying the motion for adjournment? What is the advantage to be gained by postponing it? According to Mr. Satyamurti, he expects the Simon Commission to report and a new constitution to be ready at the end of August. I congratulate him on his knowledge of these things. I myself have not such

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knowledge as to what is going to happen next year. Many things may happen. According to some Members, this country will declare independence on 1st January 1930. If Mr. Satyamurti's information is correct—and I gather he has been in communication with the Simon Commission direct (Laughter) if his information is correct, and if the Simon Commission reports and legislation is ready this time next year, does he expect that to be put into operation at once? He is an old parliamentary hand. Does he not know that it takes a long time to put into force any advance which may be contemplated by the Simon Commission? Does he not realize the tremendous issues at stake?

“Therefore, if this measure is adjourned for one year and is taken up next year, will not Mr. Satyamurti use the same arguments and ask again for postponement? A Bill of this kind is a necessity and I think the House would be well advised to deal with the measure at this sitting.

“Mr. Satyamurti, towards the last paragraph of his speech, referred to the next elections and said that no decent political party ever entered into any controversial measure in the last year of its tenure of office. I would ask him to remember those words. I hope to have occasion to confront him with the same argument when we meet under provincial autonomy. The programme of a party can only be carried into effect slowly. Again, any Government measure that is introduced in this House is a controversial measure; the Opposition make it so. Therefore that argument does not hold water. The real reason for this motion seems to be that Mr. Satyamurti hopes to go before the electorate and say that the late Ministry has done nothing and that the reserved half has done nothing. ‘The country is crying out for a Public Service Commission. Has it been established? Send us to the Council and we will establish one on the right lines’ (Hear, hear.) That would be a good election stunt. That is the reason why he opposes this motion. I appeal to the House to support the measure on its broad principles. The House should remember that some months ago it referred this Bill to a select committee. Is the House ashamed now that it did so? Has the House any special reason now to change its mind? I suggest that it should support the Bill and see that it is passed into law. I am quite prepared to admit (and my European Colleagues are with me in doing so) that the scope of the Public Service Commission is bound to be limited under the existing conditions both by the terms of the Government of India Act and by the terms of the regulations of the Secretary of State. To my mind, however, that is no reason why we should not set up the machinery. It will take some time to get into working order. When the change in the constitution takes place and, as we expect, more powers are delegated to the local Government, and the Government of India Act itself is amended, we can amend the Bill if necessary or promulgate new rules by which the powers of the Commission could be enlarged. Therefore, I suggest to this House that it would be acting in its own interests, acting in the interests of the Services, and acting in the interests of the country at large if it proceeds with this measure as early as possible.”

* Mr. P. SIVA RAO :—“Mr. President, I have very great pleasure in supporting the motion of the hon. Member for the University. It is perfectly true that in his able and exhaustive speech, the hon. the Member for the University, dwelt mainly on the merits or demerits of the Bill and it is also

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perfectly true, as was pointed out by my hon. Friend Mr. James, that the reason for the adjournment was not lucidly and clearly put forward by the hon. Member.

“Now, Sir, the one reason that I give for the postponement of this measure is that the whole constitution is in the melting pot and it is simply astounding to my mind that the Government have, after a lapse of nine years and just on the eve of great constitutional changes, thought it necessary to introduce this measure now. I recognize the fact that we all desire to have a Public Services Commission constituted. We all desire that the power and patronage should be taken away from the hands of the executive Government and that it should not be entrusted in the hands of men who are influenced by political considerations. We all agree that the conferring of appointments should depend upon independent and judicial considerations with equal justice to all communities. As I said before, I do not want to transgress on the merits of the Bill. The question that is now agitating before the Simon Commission or the Statutory Commission, is how in the future, a Public Services Commission should be constituted. I am referring to the able memorandum submitted by the present Chairman of the Public Services Commission, Mr. Barker. In that memorandum he has protested against the formation of the Provincial Service Commissions. So, Sir, the question is now under the close consideration of the Statutory Commission whether we should have a congeries of Public Service Commissions separately for each province or whether we should have one Commission for the whole of India. That is a matter which is under close consideration and upon which the Statutory Commission will be called upon to give their opinion in a few months. The question as to what the powers of any such Commission should be and what relations should subsist between the Commission and the executive Government has to be decided by the Statutory Commission. In urging for an adjournment of this measure, the hon. Member for the University had in his mind that the report of the Statutory Commission would be ready in a few months and that it would define the powers and functions of the public services commission to be established in this country. In my opinion, it is a very potent reason for the adjournment, more especially when the whole constitution is being moulded and shaped. The other equally strong reason is this: that the Simon Committee of this Province has submitted that under the new dispensation the whole set of services including the I.C.S. and the I.P.S. or what are called the vital services working under the Local Government should be provincialized. I may also refer to the opinion of some of the other Provincial committees who have said that the I.C.S. service should continue to be recruited by the Secretary of State and that the other services alone should be provincialized. There has been acute differences of opinion on this matter and it has to be settled by an authoritative decision of Parliament, as to how the future Public Service Commissions should be constituted and how these services should be organized, in future, whether they should be provincialized, and if so whether all of them or only some of them, and if not all, which of them should continue to be recruited by the Secretary of State. So, pending a decision of the Parliament it is just and proper that we should stop our hands and suspend all legislation in regard to this matter till at least we have an authoritative decision upon it. These are the two reasons I give for the postponement of this measure and I vote for the proposition.”

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* Rao Bahadur Sir A. P. PATRO :—“ I am glad that the hon. Member who represents the Planters Constituency has exposed very clearly the fallacies underlying the arguments of the hon. Member for the University. The hon. Member for the University has given two reasons in support of his motion. In fact the hon. Member, Mr. James, said that the hon. Member for the University gave no valid reasons for the postponement of the consideration of this Bill and that the reasons which he adduced were those relating to the amendments of which he gave notice. One of the arguments put forward by the hon. Member for the University was that the Bill is *ultra vires*, that this Council should not take up the consideration of this matter because it is very doubtful whether a matter like this could be considered under the powers delegated under the rules. That I leave it to the hon. the Advocate-General to answer. Dealing with the functions of this Committee, the argument which he has put forward is that there is no necessity for this because the constitution of the Commission is such that it will be a creature of the executive Government, its functions are so limited that it is liable to be influenced by other considerations and that its functions are such that will have to be carried out completely under the guidance of the executive Government; therefore it is likely to abuse the power delegated to them. Even a superficial examination of these arguments will show that they cannot hold water. If it is conceded that the All-India Services Commission is working efficiently and satisfactorily in accordance with the rules framed by the Secretary of State for the working of a Commission, there could be no objection for the working of such a Commission in this Province. Another argument which he put forward was that the Commission would be purely an advisory body, and it would have no powers to enforce its decisions on the executive Government and so it is unnecessary. Sir, in this connexion I would ask the House to refer to the function of the All-India Services Commission. The functions assigned to that body will indicate that they are also purely advisory and that it is left to the Governor-General in Council to consult the Commission on any matter on which they think it necessary to consult that body. It is not obligatory on the Governor-General to consult the All-India Services Commission on every matter relating to recruitment of services. It is open to the Governor-General in Council to consult at any time on any matter on which he thinks it necessary and proper to do so. The Commission has to be purely advisory on any matter referred to them. The mode of recruitment to the services or the control of the services has to be in the hands of the Governor-General and not in the hands of the Commission. Therefore hon. Members will see that in this Bill the provisions are quite consistent with the powers vested in the All-India Services Commission and that the powers taken under this Bill are not derogatory from those powers.

“ Sir, there are two ways by which recruitment is made to the services: one by competitive examination and the other by selection. The rules framed under that section 96-C of the Government of India Act and the provisions stated in the present Bill are almost identical, the rules that have been framed by the Secretary of State to guide the All-India Services Commission. You will find that the rules made under section 96-C of the Government of India Act run as follows: ‘ That the Commission shall advise the Governor-General in Council on any question connected with the recruitment to All-India Services. With regard to competitive examination also whether any competitive examination is to be held in India for the purpose

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of recruitment the Commission shall advise the Governor-General in Council in regard to the regulations prescribed for qualifications and make arrangements for the actual conduct of the examination and. . . forward a list of candidates so arranged to the Governor-General.' So, the appointment is to be made by the Governor-General in Council. All that the All-India Services Commission has got to do is they should conduct the examination, arrange the list of candidates and submit it to the Governor-General for the purpose of making appointments as he deems fit.

"Reference has been made to the Public Services Commission Acts obtaining throughout the Colonies and the United Kingdom in support of the motion. The hon. Member laid emphasis on this, viz., that a certificate from the Services Commission is absolutely necessary before appointments are made. Here, in this Bill also and in the rules made for the working of the All-India Services Commissions, provision is made for a certificate being given to the effect that a particular person is on the list selected by them. that he has been found to be eligible according to the qualifications prescribed under the rules. They will have to carry out the rules as framed by the Government and they issue a certificate that the persons on the list are duly qualified and that they are competent to hold the posts. The Provincial Government will make the appointments after the certificates are issued and hence there is absolutely no reason to doubt that anything like patronage is going to be exercised if this Bill is passed. All of us agree that the power of patronage should be taken away from the hands of the executive Government. How best that can be done is a matter that we ought to consider. One of the means by which patronage can be taken away or the abuse of the power can be minimised is to have a Commission and to have a certificate issued by that Commission. According to this Bill the Provincial Commission will issue that certificate. So there is no fear or no reason whatever that because the functions of this Commission are purely advisory it is not necessary at all.

"Then, Sir, the functions of the Commission are purely advisory and there is this rule that 'The Governor-General shall have power to consider any appeal presented to him in accordance with the statutory rules and consult the Commission in regard to orders passed thereon.'—I am reading from the rules framed by the Secretary of State for the guidance of the All-India Services Commission. Hon. Members will see that these provisions have been framed in accordance with the rules framed by the Secretary of State for the guidance of the All-India Services Commission. So, there is no reason to suppose that the powers given to the Commission are illusory and that the local Government have abused the powers given to the Secretary of State.

"One other argument advanced by the hon. Member for the University was that the Commission should have full powers of recruitment and that if the rules were changed under the new constitution, powers of delegation were also likely to change. If and when that happened, it might be one year or two years or three years hence, we would have gained by that time sufficient experience and knowledge by the working of this Commission. We will have found out the defects and the difficulties of the working of this Commission and we should be in a better position to alter or modify the rules according to the conditions of that Act, if necessary.

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"Now, Sir, there is a cry everywhere that patronage is exercised very unfairly. Are you satisfied with the rules made by the executive Government? What is the remedy? Do you really say that the powers given under this Bill to the Commission are too meagre and therefore we want a better Commission and let things go on as they are at present? That is an argument which will never be admitted to be sound.

"It has been asked what is the urgency of this Bill. I think it is too late to question that point. I think when the hon. Member introduced his Bill he gave cogent reasons for its introduction and the Bill was referred to the Select Committee. The two reasons which the hon. the then Home Member gave were, that the power of delegation to the Provincial Government was such that for the first appointment the local Government had to go to the Government of India for previous sanction. For every appointment to the Provincial Service, unless it be by competitive examination, the selection was made by a permanent Board. With a view to avoid this difficulty this Bill has been brought before this House.

3-45 P.m. "In these circumstances, the reasons that are adduced for adjourning the consideration of this Bill are not at all acceptable. The main argument that the Commission will be a creature of the Executive Government is not at all sound. If you compare the rules made by the Government of India for the guidance of the All-India Services Commission and the rules contained in the Bill before the House you will agree that this motion should be defeated. There is no valid argument for postponing the consideration of this Bill."

Mr. J. A. SALDANHA:—"Mr. President, Sir, it seems to me that my hon. Friends, Mr. James and Sir Patro have given away their cases by their arguments and that they are supporting the very points raised by my hon. Friend, the Member for the University. The question is whether, under the provisions of this Bill or under the powers we have got, we can create an independent body and whether we can really remove the powers of patronage from the hands of the Government. I doubt very much and our doubts are very well founded. As I have pointed out in my minute of dissent, we create a body under a Bill passed by this House under the delegation rules made by the Government of India and under certain humiliating restrictions. We get the delegated authority from the Government of India and the Government of India get their authority from the Secretary of State. Can there be a more humiliating position than this? We want a Bill of the right kind. As my hon. Friend Mr. James pointed out, we cannot have a Bill of that kind at present. The rules are made by the Local Government. The Local Government places many restrictions on the powers of the Commission. A non-votable, or rather, an untouchable body from the budget point of view will be brought into existence. We cannot touch that body; there is no possibility of criticizing its actions. That body will not be an independent one. It will be an appendix of the Government or a branch of the Secretariat carrying on the behests of the Government. The Commissioners will be highly paid; even then, we cannot say that they will be above influences after all. We cannot get an independent body as the High Court. What is the use of having a highly paid body which cannot exercise any real powers at all? Therefore we have to put off this Bill; it is a most humiliating measure.

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We cannot create an independent body such as we have in New South Wales and other dominions. Only when we have changed conditions, the time will be mature for bringing forward a Bill for an independent commission. If this Bill is pressed we will go to the country and say what sort of Government we have at present and what sort of mock parliaments we have got. Therefore let us carry courage in our hands and see that this Bill is put off not only for one year but indefinitely until we have got better conditions."

* Mr. S. ARPUDASWAMI UDAYAR:—"Mr. President, Sir, I oppose the motion. I am at one with my hon. Friend representing the University in expressing the desire that this body ought to be independent, independent of the Ministry, independent of the Legislature and independent of the heads of departments. I go even further than my hon. Friend and say that it should be independent of all considerations of elections. It should not be a live issue at elections. It is quite possible to make it independent by seeing that it is appointed by the Secretary of State.

"Then, Sir, my hon. Friend has certain scruples with regard to the nature of the influence that may be brought to bear upon the deliberations and determinations of the Commission. It is said that this body is subject to rules made by the Government. I think we need not strain that point. What is actually meant is that the rules framed should not be contradictory or inconsistent. If we want the body to be independent and not amenable to any influence, certainly rules may be framed in such a manner as to make this body exercise its powers independently of all outside influences.

"My hon. Friend said that this body was only an advisory one. It is quite within the competence of this Legislature, when it passes the Bill, to stress and emphasize this point and move amendments to make this body advisory only in this sense, that the Government will be in a position not to mind the advice given by the Ministry, or given by the Legislature, or given by political parties but will use the advice of this body only. When this body is constituted by the Government, it is presumed that they will follow the advice given by this body.

"As regards the functions of this Commission, it lays down the syllabus, conducts examinations, draws up a list of candidates who are qualified to hold certain posts and arranges their names in a certain order; and this list is placed before His Excellency and surely, it is to be presumed that out of that list the appointments will be made. The powers which are enjoyed by similar commissions in other countries, as pointed out by the hon. Member for the University, will be enjoyed by this body also. Certainly, Sir, in framing these sections the framers are moved by the desire of having nothing very drastic. They try their best to see that, in case the Commission should go out of its way and do something extraordinary, there should be some power to say that they have gone too far. Therefore, to make these sections rather elastic, it may be that certain expressions have been used which have roused some suspicions in the mind of my lawyer friend.

"Again, Sir, what harm is there in having a legislation of this kind during the term of this Council? I know as a matter of fact that this Bill has been in the making for some years past. My hon. Friend said that everything is in the melting pot now. Very soon we shall be in a position to know what constitutional changes will be introduced into this

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country after one year. My hon. Friend Mr. Siva Rao spoke of the provincialization of the services as one of the recommendations made by the Madras Simon Committee. We know the trend of the reforms or constitutional changes. My hon. the Friend, Member for the University, said that we were going to have or very near having provincial autonomy. Provincial autonomy means that the Provincial Government will have a freer hand in the determination of these questions, and my hon. Friend suggested the provincialization of the services. Not only is this the best time for having a measure of this kind; but it is a clear indication of the constitutional changes we are going to have. If some further changes are found indispensable and absolutely necessary, later on when a new Council sits here even according to these changes it will be time for that Council with the experience gained by it, to make certain necessary amendments and make the Bill more perfect. So I think the very arguments advanced by my hon. Friend, the Member for the University, are arguments that go to show that a Bill of this kind is very necessary and that nothing would be gained by adjourning it for one year; for, after one year suppose the elections take place; it will take another two years for this new Council to prepare and place on the anvil a satisfactory Bill. So, as a clear indication of what this Legislature wants, as a clear indication of what is in the mind of the electorate, I think it is supremely necessary and important that we should have a body which must not be subject to any kind of external influence, the influence of Government, the influence of the heads of departments, the influence of the ministry and the influence of the Legislature and the different political parties. Political parties may disappear, may be split and re-organized. So many changes may take place. After one year we do not know what further changes may take place. The country is fast moving. I do not see that the fears and apprehensions expressed by my hon. Friend are so very serious as to necessitate the adjournment of this Bill for one full year. On the contrary, the very reasons he has urged to have an independent body are reasons for proceeding with this Bill.

4 p.m.

“One word more, Sir, and I have done. If Government have brought forward this measure, as he says at the fag-end of the term, it may be that Government have experienced great difficulty especially in the past two or three years in the matter of appointments and have therefore made up their mind to come to this legislature with this Bill, which will relieve them of this kind of nuisance in matters of appointment—if I can use that word, if it is parliamentary—and to relieve them of this responsibility in making appointments on consideration of qualifications, etc. For those reasons, Sir, I am in substantial agreement with the reasons advanced by my hon. Friend. I do not share his apprehensions and fears, and I am for this Bill.”

*Mr. K. R. VENKATARAMA AYYAR :—“Sir, I rise to support the motion which the hon. Member for the University has made. Sir, there are two sets of objections to the House proceeding with this measure now. One set of objections is based on the fact that the present is not an opportune moment for the consideration of this measure. Another set of objections is in regard to the provisions which this House is asked to take up for consideration and enactment at the present time. For both these sets of objections, those who sit on this side of the House think that this Bill should not be proceeded with now. A new constitution is in the

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making. Under the new constitution which would very soon emerge, the position of the public services will radically differ from what it is now. That being so, the present is hardly the suitable time when we can take up such a Bill for consideration. The whole of the present Bill is cast in a mould radically incompatible with what the position of the services would be under any *Swaraj* Government. That being so, it is not possible, however much we may struggle with all our amendments in the course of the consideration of this Bill, to shape the Bill in such a way as to make it a fit enactment in the light of the experience of the working of which we may expect to find a satisfactory Services Commission which will be in a position to deal with the problem under the new constitution. Therefore, the argument that our attention must be focussed upon the amendments and not upon this adjournment motion is not sound. Of course, if you set up any Commission under the scheme at the present time, the main essence of which seems to be that it is the creature of the irresponsible executive Government of the day and can be got rid of in no time at the sweet will and pleasure of the irresponsible Executive Government, then such a Commission can, even during the short period of the two or three years during which it is contended that we should gather experience of its working, be no more than an absurd superfluity, if not a costly futility. Why do we want a Commission at all? It is not as if we are trying to ask for some legislation or other dealing in some manner or other with some kind of Public Service Commission. We want a real Public Service Commission for this Presidency which will be absolutely independent as in any modern system of Government; that is, absolutely independent of the Executive Government. That, it is impossible to have under this Bill, whatever may be the amendments that you may try to import into it. For these reasons, Sir, I think it is the duty of the House to avoid the cost of a Commission such as the one that can alone be set up at the present time under this Bill."

* Sriman BISWANATH DAS Mahasaya:—"Mr. President, Sir, it may well seem strange to some hon. Members in this House that we who are out for a Public Service Commission to-day stand to oppose it and move that it be put off for one year. After deep deliberation, we have come to this conclusion to support the postponement of this measure for one year. Sir, to-day we stand by the principle that we enunciated before on the floor of this House, that we want a strong and independent Commission, a Commission which will have nothing to do with the executive Government, and will be in full charge of selecting candidates, and will have full power, as in the dominions and other free countries, to issue certificates of promotion to candidates that deserve such promotions. Such a Commission would have been welcomed by hon. Members of this House, and neither the Government nor the admirers of the Government would have found any cause for complaint or opposition from the members on this side of the House. Sir, my hon. Friend Sir Patro has cited the Central Public Services Commission Act and quoted precedents. Bad legislation is no precedent. We have here a different constitution from that of the Government of India and my hon. Friend, calling himself Chairman of the Parliamentary Committee, has himself given quite a different constitution for the provinces from that of the Government of India. It is therefore for him very late in the day to draw conclusions, comparisons and precedents in regard to the constitution of that Commission. I for myself do not find any

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difference between the Staff Selection Board which we have now and the present constitution of the Services Commission. The Staff Selection Board is entirely a creature of the Executive Government. I have gone through the pages of the Public Services Commission Bill as it emerged from the Select Committee, and I have not been able to find anything in any of the clauses which go to show that the Services Commission will have an independent existence. It is to be appointed by the Governor in Council and all the acts to be done by it are mere recommendations. I think this is only opening the back door for the Executive Government in order to escape public criticism and to take shelter in the name of the Commission and do things a hundred times more mischievous than what they are doing at present. My hon. Friend to-day standing from his seat made serious charges against the distribution of patronage. Sir, we were iterating and reiterating from time to time in this House the abuse of patronage by Government. If to-day we oppose this Bill, it is because we find there is nothing in it to prevent the mischievous distribution of patronage which is being done from day to day in this province and so loudly complained of by Sir Patro. .

"Sir, now coming to the Bill itself, the Commission is to be a creature of the Government. Even the All-India Services have got some sort of protection. The Government of India cannot touch them; but here is a Commission which is removable at will, at the sweet will and pleasure of the Governor in Council. The Governor in Council according to the Madras Government memorandum will hereafter mean the Ministry, and with six or seven Ministers which my hon. Friend Sir Patro has recommended, certainly the Governor will be shadowed. This Bill, if passed by the seal and sanction of the House will give more room for patronage, more room for undesirable persons to be appointed than what was being done by my hon. Friends, the Ministers, both present and past.

"Sir, my hon. Friend was quoting chapter and verse from the Act of the Central Government as if paragraph after paragraph has been taken from that Act to this Bill. I would appeal to him to say whether there is anything in that Act to show that the Government of India is given power to depute a person on their behalf to be present when the Public Services Commission interviews candidates. It is an unthinkable position. I do not know how the Select Committee tolerated this provision. This takes away the little respect that was attached to the Public Services Commission. If the Provincial Government which has got the authority to appoint persons sends its own man to be present at interview, while the Commission interviews the candidates, I do not think there can be any dignity for the Public Services Commission, not to speak of power.

"Then, Sir, I ask why again have the system of selection. For myself, I like that there should be communal justice, advocated by my friends both Brahmans and non-Brahmans in distributing these appointments. That being so, leave the recruitment to competitive examination on some well defined lines approved by this House. I do not know why there should be again a system of selection.

"Then, Sir, I come to clause 11 of the Bill. It is a very mischievous provision which proposes that the Commission will have the power to recommend persons for promotion to the higher services. Sir, this is again a very

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convenient back-door for the Executive Government and for the Ministers to see that undesirable people are promoted to the higher ranks of the services without the necessary ability, character and qualifications.

"Sir, there is another thing which is more mischievous than all the clauses put together, and that is, attempts have been made by the framers of this Bill to deprive the legislature of its financial control in regard to this body. Even in the case of the High Court, we have got the pay and allowances of the establishment budgeted, discussed and voted upon by this House, while all the expenses of the Commission is excluded from discussion by declaring them as non-votable by the Statute. I do not find why the pay of the Secretary of the Commission should be kept from the purview of this legislature, as also of the establishment. Where then is any chance for this House to discuss or pass any opinion over the work of the Commission? Quoting a parallel case, I say that this hon. House committed a blunder in the case of the Hindu Religious Endowments Bill. To-day we find that the Commissioners are quite safe with their appointments and that no hon. Member of this House can say one word about the work or otherwise of the Hindu Religious Endowments Board Commissioners. Similar will be the case with regard to this Public Services Commission. Speaking of voting money for the High Court, I do not think that at any time this House passed any remarks not justified by reason or truth while voting the demands for grants. That being so, I do not find any reason why the Executive Government should be so anxious to exclude all discussions by the legislature in this case."

4-15
P.M.

* The hon. the PRESIDENT:—"Order, order. The main point on which Mr. Satyamurti urged the adjournment of the consideration of this business was that great constitutional changes were impending and that all those provisions that dealt with the powers of the Public Services Commission might be a proper ground for examination, but the other provisions of the Bill are not to be examined in detail at this stage."

Sriman BISWANATH DAS MAHASAYO:—"Then, Sir, the operation of the Public Services Bill excludes the selection of offices now held by the All-India Services. As has been alluded to by some of my hon. Friends who are expected to be in the know of things of what the coming changes would be and what important questions are being discussed by people higher than ourselves, I think there is much scope for further consideration. From a view of these questions, I find nothing will be lost by this postponement of the Bill for one year. The Selection Board which is going on can continue for one or two years if necessary. And until we know where we are, it is not desirable to have an Act like this and to saddle this Presidency with a recurring expense of Rs. 1,20,000 a year. With these words, I heartily support the motion for adjournment."

* Mr. G. HARISARVOTTAMA RAO:—"Mr. President, Sir, I was not surprised at the opposition to the motion made by my hon. Friend the Member for the University, but I was really surprised at the reasons advanced by one or two speakers in regard to their opposition. The Member for the Planters was anxious to make out that we on this side were urging for this adjournment out of motives of a political nature, and out of motives that arise on account of the expected elections, but I may tell him frankly and plainly that an unsatisfactory Act made on the floor of this House will

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certainly be a greater weapon in our hands to beat our opponents with than a motion of this nature for an adjournment of this business. He over-shot himself and felt that he was making a point when he slung in our face this political motive. I am sorry that he has counted too much upon the strength of his comrades. Apart from that, there was a very peculiar argument put forth by my hon. Friend the floor leader of the Justice Party. He told us that this measure was a necessity at present and it was a necessity not so much for the effect of the Bill upon the administration, but because he believed that we had to copy the Central Government. He quoted line after line from the Act that applies to the Central Government and he told us that we were to copy the same in this Bill also. As a matter of fact, I searched the whole literature on the subject that the Government had been able to put before us to find out what really the object of this measure was. I find in the original Bill in the Statement of Objects and Reasons a similar statement made by the then Member in charge. The statement was merely this, that the Government of India had a Public Services Commission and the Madras Government should also have it. I am afraid, Sir, that it is very fallacious to go on that basis. Neither this Government nor any another official body in this country has made a recommendation on behalf of the Central Government that it should either be liberalized or democratized, but every conceivable Government has made this recommendation that in the coming constitution Provincial Governments should be mostly democratic and that responsibility should be conceded to the local Governments. That is the song that is being sung from official platforms also to-day. How in the world my hon. Friend the floor leader of the Justice Party makes out that what applies to, what is considered and what is believed to continue to be, a bureaucratic institution, shall not apply equally to what is believed to be going to be a democratic institution completely I am not able to realize. I am sorry that the bureaucratic mentality is swaying the attitude in regard to this Bill. The supporters of this Bill, though they are thinking in terms of democracy, though they are speaking in terms of responsible Government, though they are speaking in terms of making appointments, recruitments and things of that sort free from the complications that arise out of democratic elections and democratic institutions, though they are speaking in terms of all these considerations and ideals, they are still swayed by the bureaucratic ideals of having advisory bodies to guide the bureaucracy. It is a very wrong attitude to take. I urge that the making of this law should be left to more democratic brains than ours. The bureaucrat is still a bureaucrat. The so-called democracy under the present constitution which runs offices and which shows patronage is yet bureaucratic, because it has not democratized itself sufficiently to understand the implications of a Public Services Commission. It is all very well to say that a Public Services Commission is necessary and it is all very well to taunt us on this side that there has been a great demand for the Public Services Commission and that we should not impede the progress of the Bill at this stage. We have not to cry for the moon. We have cried for something that would be really practical. We do not want a toy. We undertook to allow this Bill and we allowed it to go to the Select Committee, in the hope that after all we might have something reasonable to go upon and something which would be useful to work out. As reasonable men we demanded a Public Service Commission and we did do all that was necessary to give a chance to its being enacted. But, the Select

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Committee has come out in its true colours and the bureaucratic side has had its full sway upon the Select Committee and when we know what the fate of our amendments will be to this Bill and when we are appraised of the situation that has arisen, we must, while yielding that a Public Service Commission is an essential thing in democratic institutions and essential also in bureaucratic institutions, oppose the rushing of this measure at present.

"It has also been pointed out, Sir, that rules will be made. We have known the meaning of 'rules', the import of 'rules' under the benign British Government, which has always managed to relegate all essentials to rule-making authorities. The rule-making authorities are none except the executive Government that exists at the time. In a Public Service Commission what is attempted to be done is to prevent the executive. . ."

* The hon. the PRESIDENT:—"I am afraid, that reference to the rule-making power in the provisions of the Bill will not be in order on this motion."

Mr. G. HARISARVOTTAMA RAO:—"I was merely referring to the argument that was advanced. Sir, it was also said that there would be a list of persons and the qualifications would be prescribed and the Government will have to choose from the list of persons recommended by the Public Services Commission. That is not a fact in this Bill. This Bill has got provisions to overrule even this minimum of safe-guard that the hon. Member was referring to. But, granting that this safeguard existed, it is not a safeguard in regard to individual appointments. Are not rules made, are not qualifications prescribed, are not list of persons made in the Staff Selection Board; and yet, where is the necessity for a thing like the Public Services Commission Bill that is intended to be forced down the throats of the Legislative Council to-day? I am appealing to the Members of this House to remember their responsibility to the coming generations. It is not right that we should proceed upon a fancied grievance against one party or another. I am sure that this adjournment motion has come in good for the country. I am sure that some of us, at any rate on this side, do not look upon it as a mere party question. I know that I am appealing vainly to my friends in the other parties, but I do make this appeal because we are likely to proceed to a further evolution in the political advance of this country within a measurable distance of time and in view of the fact that democracy will be freer to make its own arrangements for the better control of its services. I am sure they will appreciate my point of view that this Bill should stand over till such time as will be necessary to enable us to see the bearings of a measure like this and as the new constitution is framed. I talk neither of Independence nor of Dominion Status on the floor of this House, but I speak of the coming measure of reform. We do not know what it will be, but it is acceded on all sides that it will be, some progress on what it is to-day and that it will be more democratic than what it is to-day. It is being made to appear that a change will take place in that direction. How much it will be or what value we should attach to it is a question that ought to be determined later on, but in so far as that is the basis upon which we are proceeding, I feel that this body has no right to dictate a thing under which the newly constituted Government will act. We have already been troubled in other directions by rushing legislation of this kind. I am referring to the legislation that a previous Council prepared for us and bequeathed to us and under which we

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have suffered all these years. Let us not bequeath in a similar manner a legislation that will hamper the real development of democracy in this country, that will hamper the real development of responsible Government in this country and that will hamper the true interests of the country. I do not wish to detain you very much longer, but I will merely make an appeal and I ask of you to remember that our idiosyncracies apart, our parties apart, we owe a duty to the country and on the threshold of momentous changes, it is not right that we should discharge a duty knowingly to the detriment of the coming generation."

4-30
p.m.

* The hon. Mr. A. Y. G. CAMPBELL :—" Mr. President, Sir, I rise to oppose this motion. I do not wish to dwell very long upon the legal aspect with which my hon. Friend the Member of the University dealt at considerable length, for that is a matter for your decision, but I may mention that the Delegation rule 5 was passed after the draft Bill had been submitted to the Government of India, and we have no reason to suppose that it was considered by the Government of India to be ultra vires of the Legislative Council after that rule had been passed. I do not wish to deal with the various points mentioned by honourable members which should be more appropriately dealt with in connexion with the amendments which are proposed to the present Bill, but there are one or two points of principle, to which I may perhaps refer.

"I hardly think the hon. Member for the University was really serious in suggesting that the Government undertook this legislation in order to provide three jobs for three favourites of the Government for the time being. It would be a very clumsy way of effecting that object. We have had to go to the Secretary of State for a rule and we have had to take a great deal of trouble in connexion with this Bill. The same argument would apply to any Bill even after the expected reforms have been carried out and it would indeed apply to any Bill which will, or which might be expected to, lead to the creation of new posts.

It has been suggested that the Staff Selection Board satisfies all necessary conditions which this Commission will fulfil. That, Sir, is a position which I must traverse. The Staff Selection Board is a small body of busy officials and a few non-officials and they do indeed only touch the fringe of the problem with which the proposed Services Commission will have to deal. The Staff Selection Board can deal with only a very small number of selections for certain higher posts and for certain posts in the Madras City. But there is a very large number of posts for which they make no selection whatever at the present time nor could they undertake to do so without being made a full time body as it is proposed to make the Madras Services Commission. It is for that reason that we require to have a body of gentlemen who can devote their whole-time to the questions which will be referred to them.

"The main argument, for the postponement of this Bill is based on the hope that in a short time another constitution may be set up in India. I do not propose to follow the honourable members in their speculations as to what is going to happen in the future. I am no prophet; I have no means of knowing what will be the form of the next constitution, nor when it will come into force. But, Sir, I submit that the present constitution is admittedly transitory and has always been regarded as such. Although it is transitory,

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it is none the less our duty to carry on the functions of the Government until we are replaced by another form of Government. It would be very satisfactory to us to accept the argument that nothing more should be done now in the way of introducing new Bills or making any important changes in any way but that we should carry on merely what is now in existence and make no efforts to improve matters in any direction until the new reforms have been carried out. But, Sir, I do not think that we should be right in doing so. And there is another point, that this period of nine or ten years was meant to be a period of experiment, preparation and training during which we should gain experience and one of the matters in which we have found necessary to take action is this question of relieving the Government of having anything to do with selections for appointment to the services. And it is most desirable that this change should be made during this present transitory period. It is argued that if you make this law now it may require amendment at a later date. Well, Sir, it may or it may not. That is a matter for future consideration but there are very few laws which have been passed by this Council or any other legislative body which do not require amendment in course of time. I do not now suppose that this law will remain unaltered for ever. If amendment may be found necessary as the result of experience, that is no reason why we should not at once put this very necessary experiment into effect. It is based upon the rules and regulations constituting the functions of the Public Service Commission under the Government of India. We had the advantage of seeing that body in operation. There was every reason to hope that a similar commission here will be extremely beneficial and will relieve the services from any political influence. For this reason, Sir, I think that it is most desirable that this Bill should be passed at once so that we can gain experience from its working as well as have the advantage of being immediately relieved of any possibility of political influence in making selections for appointment to the services. The Ministers are in favour of this Bill, I believe, for similar reasons. And Sir Patro, an ex-Minister, has also spoken in favour of it from his own experience though another ex-Minister may hold the opposite view. So, Sir, I feel very strongly that we ought to deal with the Bill at once and carry it into law at the earliest possible moment."

MR. C. V. VENKATARAMANA AYYANGAR :—"I am sorry, Sir, to say that we have been so much disappointed by the way in which this adjournment motion has been opposed by friends on the other side. Briefly put, this is a matter on which our first fear is we are going to waste a large sum of money. It is admitted on all sides that the setting up of this commission will be a very costly business. We would nevertheless be quite willing to agree to this waste of money being considered ordinary expenditure if it satisfies any ordinary man of common sense that the expenditure is on something useful. We are told that the members of the Commission ought to be independent. What is the independence which is thought of? They are appointed by the Government and told: If you are good boys and obey us, you can be holding the appointment for ever. Practically it is a life appointment. No restriction is placed upon the tenure of these members except of course the old age limit of 60 years. Therefore as soon as a member is appointed, he is told by the Government: 'Good boy; be good and the result will be you will be enjoying the pleasures of the office for ever. If you at any time displease us, however, there is the cudgel, the sword over your head and we will dismiss you at once.' This dismissal is not a mere

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dismissal but has got additional disadvantages. For the dismissed man shall not get any appointment under Government. One of the sections says that that member of the Commission so dismissed shall never be given any appointment under Government. Therefore, the result is so serious, the punishment so great, that no man of ordinary common sense can be expected to be in the least degree independent. Supposing they are independent, supposing some of them in spite of the risks have the conscience to be independent, have they powers? That is the most important thing. This Bill says that this machinery set up at such a huge cost with all this paraphernalia may be idle for ever. They may draw the pay and still have no work. The Bill does not compel the Government to refer every matter to the Commission. They need not and will not, if they have reason to apprehend any difference of views on the part of the members. Even supposing for fear of public criticism, the Government go on consulting the Commission on any and every point, what is the result? My hon. Friend, Sir Patro, who is generally correct in his statements, made one incorrect statement to-day. He said that every man to be appointed to any service should be certified by the Commission. It is a mistake. He says, no, no. But I have studied the Bill very carefully and I have mentioned it in my minute of dissent that the Bill does not compel the Government to appoint any one recommended by the Commission. The Commission may recommend 20 people in order of merit but the Government are not bound to appoint any one of them. They can take one outside the list and I challenge anybody here to say 'no'. Therefore, Sir, we go through the process of the matters being referred to the Commission, we go through the process of the Commission holding examinations, having interviews and making recommendations and still the Bill will not compel the Government to make the appointments out of the persons recommended or certified by the Commission. If that is the object of paying this large sum of money on the Commission, I do say, Sir, that it is absolutely unjustifiable. It is not only that but it is also unnecessary. It was asked, no doubt pertinently to some extent, what are we to do. For all these nine years, the Legislative Council Members and Ministers have been bombarded by their supporters, the voters, with requests for appointments. But does this particular Commission in any way solve the trouble. The hon. the Revenue Member referred to the Staff Selection Board. Does this Commission in any way differ from the Staff Selection Board excepting that it will be a very costly business. He said that at present the Staff Selection Board could not deal with all recruitments and nominations and all the questions referred to them. The Government are to blame for that. But once the Staff Selection Board makes the selection, there is no rule but an understanding that the Government should and are in practice selecting people out of the list recommended by the Board. Even that is not to be in the case of this Commission. The Staff Selection Board may function for a few more days with probably a few more additions. Is there anything to prevent the Government from enlarging the strength, and the scope of the Board? Have the Government found any difficulty in getting qualified people by means of the Staff Selection Board? Has there been any complaint that, so far as the Staff Selection Board is concerned, they have exercised their patronage on wrong lines? Why should we then change the Staff Selection Board into a Commission unnecessarily? Is the Commission to have greater powers, is it to be more useful or is it to be more independent? Nothing of the kind takes place. The only difference in the situation is, as I said, we

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will have this costly machinery established. Probably as time goes on, it may be found necessary to add to the number of members on the Commission, the Government may well say that the Commission have so recommended and that they are to act upon it.

“Then, Sir, there is another alteration. They say that the Staff Selection Board is useless. Now, Sir, there is, as a matter of fact, the Indian Public Services Commission. Under the present rules governing that Commission, this Government can ask them to function in regard to this province. Sir, I want also to know what has been done by all the other provinces. May I know why this Government alone is asking for this legislation in this matter? I do not think any other province has got a similar Act as is now proposed to be enacted here. I am surprised that the hon. Member Mr. James representing to-day on this matter the European group should have opposed this motion. Probably second thoughts made him oppose this motion. But I understood him in his speech to say that there are very desirable amendments of which we have given notice which may be passed. I may tell him, Sir, and those who think with him that under the advice of the Advocate-General and probably on the objections raised by the other side, you may probably rule many of them as *ultra vires* and not allow them to be moved in view of the Delegation Rules. The Delegation Rules, as Mr. Satyamurti said, are inconsistent. If you look at the history of these rules you will find that rule 3 was made before this Council came into existence, and that rule 5 has been added afterwards. Probably this Government is anxious to get this power to establish this Commission, and they do not want the Government of India or the All-India Commission to make the initial appointments. They want to have some power in their hands by means of which they can avoid going before the Government of India. So they asked the Secretary of State in haste for this power and for this protection. And probably the Secretary of State relying on the advice of the man on the spot sanctioned this rule all of a sudden. I may explain that rule 5 would not ordinarily be sanctioned by any reasonable Secretary of State if he only took the matter into deep consideration. The only objection raised for the adjournment of this matter for one year is this. Mr. Satyamurti raised the question of adjournment on the important point of jurisdiction. In my minute of dissent I have referred to the other ground. We say that this Government may ask the present Secretary of State to go into the matter very carefully as regards the question of these rules and give us more powers on the lines of the amendments which are considered reasonable. And I would also request that no point of order may be raised by my hon. Friends there. One of my hon. Friends raised the point of order against these amendments in the Select Committee, these very reasonable amendments. I do not blame him. So, one object that will be gained by postponing the matter for one year is, it will enable the Government to go to the present Secretary of State and tell him that his predecessor was hasty in making these unnecessary and conflicting rules, and probably we may make this Bill itself more reasonable, and this Commission independent. Therefore, Sir, we strongly support this motion and the Government and the House will not lose anything by postponing this measure and passing this motion, whereas they will not gain anything at all by opposing this motion.”

The hon. the President :—“The question is *that this business be adjourned for a year.*”

4-45
P.M.

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The motion was declared lost. Mr. Harisarvottama Rao demanded a poll which was accordingly taken with the following result :—

Ayes.

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| 1. Mr. P. C. Venkatapathi Raju. | 19. Mr. C. Ramasomayajulu. |
| 2. " K. Koti Reddi | 20. " T. Adinarayana Chettiyar. |
| 3. " R. Srinivasa Ayyangar. | 21. " Ahmed Meeran Sahib. |
| 4. " Sami Venkatachelam Chetti. | 22. Sriman Biswanath Das Mahasayo. |
| 5. " S. Satyamurti. | 23. Mr. A. Kaleswara Rao. |
| 6. " C. V. Venkataramana Ayyangar. | 24. " K. Uppi Sahib. |
| 7. " J. A. Saldanha. | 25. " C. N. Muthuranga Mudaliyar. |
| 8. " G. Harisarvottama Rao. | 26. " K. V. Krishnaswami Nayakar. |
| 9. " Basheer Ahmed Sayeed. | 27. " C. Venkatarangam Nayudu. |
| 10. " C. S. Govindaraja Mudaliyar. | 28. " B. Venkataratnam. |
| 11. " Abdul Hameed Khan. | 29. " A. Ranganatha Mudaliyar. |
| 12. " L. K. Tulasiram. | 30. Diwan Bahadur R. N. Arogyaswami Mudaliyar. |
| 13. " K. V. R. Swami. | 31. Mr. Ramanath Goenka. |
| 14. " D. Narayana Raju. | 32. " R. Nagan Gowda. |
| 15. Dr. B. S. Mallayya. | 33. " K. R. Venkatarama Ayyar. |
| 16. Mr. K. R. Karant. | 34. " Chavadi K. Subrahmanya Pillai. |
| 17. " K. Madhavan Nayar. | 35. " P. Siva Rao. |
| 18. " A. Parasurama Rao. | |

Noes.

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| 1. The hon. Khan Bahadur Sir Muhammad Usman Sahib Bahadur. | 32. Mr. S. Subrahmanya Moopanar. |
| 2. " Sir Thomas Moir. | 33. " Daniel Thomas. |
| 3. " Diwan Bahadur M. Krishnan Nayar. | 34. " S. Venkiah. |
| 4. " Mr. A. Y. G. Campbell. | 35. Rao Sahib R. Srinivasan. |
| 5. " Dr. P. Subbarayan. | 36. Mr. C. E. Wood. |
| 6. " Mr. S. Muthiah Mudaliyar. | 37. " A. J. Leech. |
| 7. " " M. R. Seturathnam Ayyar. | 38. " B. J. C. Robertson. |
| 8. Mr. Alladi Krishnaswami Ayyar. | 39. " H. F. P. Hearson. |
| 9. " Hilton Brown. | 40. " S. N. Dorai Raja. |
| 10. " H. A. Watson. | 41. " S. Arpudaswami Udayar. |
| 11. " A. G. Leach. | 42. " K. Ramachandra Padsyaachi. |
| 12. " J. Gray. | 43. " U. Ramaswami Ayyar. |
| 13. " S. V. Ramamurti. | 44. " C. Gopala Menon. |
| 14. " C. B. Cotterell. | 45. " B. Ramachandra Reddi. |
| 15. " M. A. Manikkavelu Nayakar. | 46. Rao Bahadur C. S. Ratnasabhapati Mudaliyar. |
| 16. " Syed Tajudin Sahib. | 47. " Sir A. C. Patro. |
| 17. " C. D. Appavu Chettiyar. | 48. Diwan Bahadur P. C. Ethirajulu Nayudu. |
| 18. " H. B. Ari Gowder. | 49. Mr. P. T. Rajan. |
| 19. " A. B. Shetty. | 50. " T. K. Chidambaranatha Mudaliyar. |
| 20. " J. A. Davis. | 51. Khan Bahadur S. K. Abdul Razaack Sahib Bahadur. |
| 21. " R. Foulkes. | 52. Mr. Khadir Mohideen Sahib. |
| 22. " P. J. Gnanavaram Pillai. | 53. Diwan Bahadur S. Kumaraswami Reddiyar. |
| 23. " Mahmud Schamnad. | 54. Khan Sahib T. M. Moidoo Sahib Bahadur. |
| 24. " Muppal Nayar of Kavalappara. | 55. Rao Bahadur K. Sitarama Reddiyar. |
| 25. Subadar-Major S. A. Nanjappa Bahadur. | 56. " B. Muniswami Nayudu. |
| 26. Mr. T. M. Narayanaswami Pillai. | 57. Diwan Bahadur A. M. M. Murugappa Chettiyar. |
| 27. " K. Krishnan. | 58. Zamindar of Mirzapuram. |
| 28. " N. Siva Raj. | 59. Mr. A. V. Bhanaji Rao. |
| 29. " M. V. Gangadhara Siva. | |
| 30. " V. I. Muniswami Pillai. | |
| 31. " W. P. A. Soundara Pandiya Nadar. | |

Neutral.

1. Zamindar of Seithur.

Ayes 35.*Noes* 59.*Neutral* 1.

The motion was declared lost. The motion that the Bill as amended by the Select Committee be taken into consideration was then put and carried.

The Bill was then considered clause by clause.

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Clauses 1 and 2 were consecutively put, passed and added to the Bill.

Clause 3 was also put, passed and added to the Bill.

Clause 4.

Mr. BASHEER AHMED SAYEED :—" Mr. President, Sir, I move that after the word 'appointed' the words 'for a period of five years' be added. In moving this amendment I wish to point out that in the clause in the Bill under consideration there is no period limited for the members of the Board. The clause says that they shall be appointed and may be removed by the Governor in Council, but the period for which they have to serve as such members, either as Chairman or as Members of the Commission is not fixed. It is necessary that there should be some period specified for which these appointments should be made. There is a later section in the Bill which says that no member shall be appointed after he is 60 years of age. When that rule exists I should prefer, Sir, that people of experience and age should be appointed and when they are appointed, they should know for what period they are to serve on the Commission. Besides, when once appointments are made, it is hardly possible or desirable that the persons so appointed should be sent out by the Governor in Council. But when occasions arise when some people should be relieved of their duty as members of the Commission, it becomes incumbent that they should be removed. But when there is no limit fixed for the time for which they would serve on the Commission, no one knows where things would lead to. So, it is thought essential that a period of five years should be fixed for the membership and also for the Chairmanship of the Commission. I therefore move this amendment."

Mr. J. A. SALDANHA :—" Sir, I second this amendment, and for this reason. The members of the All-India Public Services Commission are appointed for a period of five years, and I do not see any reason why such a limit should not be fixed in this Bill also. Besides, it is desirable that the period for which these gentlemen are to serve should be fixed. It is desirable that not only people of 60 years of age but old fossils should not serve on it, and it is necessary that the period should be fixed for retirement. Therefore I second this motion."

The House then adjourned to meet again at 11 a.m. the next day.

XII

PAPERS LAID ON THE TABLE OF THE HOUSE.

1. *Proceedings of the 9th and 10th meetings of the Finance Committee held on the 11th and 20th March 1929 respectively.*^a
2. *List of posts on Rs. 500 and above created during the quarter ending March 1929.*^b
3. *G.O. No. 271, Finance, dated 4th April 1929, communicating corrections in the first edition of the Civil Budget Estimates for 1929-30.*^a
4. *G.O. No. 620, Development, dated 4th April 1929, recording Audit Report of the Cinchona Department for the year 1927-28, and 30th June 1929.*^a

^a Printed separately.

^b Printed as Appendix X on pages 133—135 infra.